IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1236 of 1997

HON'BLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DEVIKABEN PRATAPSING RATHOD

Versus

STATE OF GUJARAT

Appearance:

MR PM VYAS for Petitioner No. 1

MR RM CHAUHAN, APP, for Respondent

CORAM : HON'BLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 18/11/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE J.M.PANCHAL)

1. Instant appeal, which is filed under section 374(2) of the Code of Criminal Procedure, 1973, is directed against judgement dated October 24, 1997, rendered by the learned City Sessions Judge, Ahmedabad City, in Sessions Case No.319/1996, by which the appellant is convicted of the offence punishable under section 302 IPC and sentenced to suffer RI for life.

2. Deceased Pratapsinh Sampatsinh was resident of Ahmedabad city. He was married to one Vimalaben in the year 1965. After marriage the deceased was staying with Vimalaben at Mangal Prabhatna Chapra, Near Milan Cinema, Saraspur, Ahmedabad. During the subsistence of marriage, Vimalaben had given birth to two sons and a daughter. The name of the eldest son was Karan, whereas the name of the second son was Rajesh and the name of the daughter was Anju. After about 4-5 years of marriage, the deceased had come in contact with the appellant and brought the appellant to his house located at Saraspur, Ahmedabad. During the subsistence of relationship with the appellant, the appellant had given birth to two sons named Harish and Pravin. The evidence of witness Bhikhabhai Lalbhai, who was serving as Police Head Constable at Bapunagar Police Station, indicates that the deceased was a bootlegger and was selling and/or distributing liquor contrary to the provisions of Bombay Prohibition Act, 1949, as a result of which several offences were registered against him at Bapunagar Police Station. The deceased had incurred losses and therefore he had sold his house located near Milan Cinema, Saraspur, Ahmedabad. After sale of the residential house, the deceased had made arrangement for stay of Vimalaben and her children in a hut, whereas the appellant was left in lurch with her children and had lived on pavement for a period of about six months. Thereafter the appellant had taken on lease an open piece of land located at Dalsukhmalini Chawl, on which she had constructed a hut and was staying with her children therein. The record shows that two days prior to the date of the incident, the appellant and her two sons, in the company of sons of wife of the deceased, had gone to Pavagadh and that Rajesh, son of Vimalaben was sleeping in Dhalsukhmalini Chawl, wherein the room of the appellant is located. According to the prosecution, the deceased had come to the room of the appellant at 3.30 a.m. on October 17, 1996 and the appellant had abused the deceased when he had attempted to enter the room occupied by the appellant. What is maintained by the prosecution is that after abusing the deceased, the

appellant had poured kerosene over him and set him ablaze. On commotion taking place, Rajesh had informed Vimalaben about the incident, as a result of which Vimalaben in the company of her brother Sureshbhai had gone to Dhalsukmalini Chawl and found her husband lying near temple, which is opposite the room of the appellant. The deceased was removed to Shardaben Hospital for treatment in a rickshaw by Karan, Pravin, Haresh and Devikaben. At Shardaben Hospital it was found that the airconditioners were not working in Burns Ward and therefore, on the advice of authorities of Shardaben Hospital, the deceased was removed to Civil Hospital. According to the prosecution, Vimalaben, on way to Civil Hospital, had tried to know from the deceased as to how the incident had occurred, and the deceased had informed Vimalaben that the appellant had poured kerosene over him and set him on fire. At Civil Hospital the deceased was initially treated by Dr. Vinodkumar Lajjaram Gupta and the case of the prosecution is that while narrating the history of assault the deceased had informed the doctor that his wife Devikaben i.e. the appellant, had set him on fire after pouring kerosene over him. After learning about the history of assault, the doctor had given necessary intimation to Police Constable Vijaysinh Lalsinh, who was discharging duties at Civil Hospital, Ahmedabad. On receiving information from the doctor, Police Constable Vijaysinh Lalsinh had made inquiries with the deceased and it is the case of the prosecution that the deceased had informed Police Constable Vijaysinh Lalsinh that he was set ablaze by his wife Devikaben after pouring kerosene. Thereafter Police Constable Vijaysinh Lalsinh had conveyed necessary information to Shahibaug Police Station which was recorded by Head Police Constable Bhikhabhai Lalbhai. At about 6.55 pm a Yadi was sent to Jagdishbhai Sundarbhai Parmar who was then Executive Magistrate of Ahmedabad Metropolitan area with a request to record the dying declaration of the deceased. On receipt of the same, the Executive Magistrate had gone to the Civil Hospital and after verifying the fact that the deceased was in a fit state of mind to make statement, had recorded the dying declaration of the deceased. Meanwhile, Ganpatsinh Bhimsinh Chauhan, who was then P.I. of Bapunagar Police Station, had learnt about the incident when he had reported for duty and gone to Ward No.5 of Civil Hospital, Ahmedabad, where the deceased was being treated. After verifying that the deceased was conscious and was capable of making statement, P.I. Mr. Chauhan had recorded the first information report as narrated by the deceased which was reduced into writing by the writer of the P.I. During the course of treatment the deceased

had expired at about 12.30 pm and therefore offence of murder was registered against the appellant. In the course of investigation, the investigating officer had recorded statements of persons who were found conversant with the incident in question and incriminating articles were recovered. On completion of investigation a chargesheet was submitted against the appellant in the court of learned Metropolitan Magistrate, Ahmedabad, for the offence punishable under section 302 and section 504 of IPC. As the offence punishable under section 302 of IPC is exclusively triable by the Court of sessions, the case was committed to City Sessions Court, Ahmedabad for trial, where it was numbered as Sessions Case No.319/1996.

3. The learned City Sessions Judge had framed charge against the appellant of the offences punishable under section 302 and section 504 of IPC. The charge was read over and explained to the appellant who had not pleaded guilty to the same. Therefore the prosecution had examined (1) Jagdish Sundarbhai Parmar (PW1 - Exh.8). (2) Dr. Rameshchandra B. Shah (PW2-Exh.12), (3) Vimalaben Pratapsinh (PW3-Exh.14), (4) Pravinkumar Somabhai Solanki (PW4-Exh.18), (5)Chhanaji Manaji Thakore (PW5-Exh.20), (6) Somabhai Khatnabhai (PW6-Exh.22), (7) Sureshbhai Chhotalal Yadav (PW7-Exh.23), (8) Dr. Vinodbhai Lajjaram Gupta (PW8-Exh.26), (9) Dr. Arulappan Tangswamy (PW9-Exh.30), (10) Vijaysinh Lalsinh (PW10-Exh.32), (11) Bhikhabhai Lalbhai (PW11-Exh.34), (12) Dr. Dipak Kantilal Ramani (PW12-Exh.39), (13) Gulabsinh Parvatsinh (PW13-Exh.45) and (14) Ganpatsinh Bhimsinh Chauhan (PW14-Exh.48) to prove the case against the appellant. The prosecution had also produced documentary evidence such as dying declaration of the deceased recorded by Executive Magistrate Mr. Parmar at Exh.10, postmortem notes of the deceased prepared by Dr. Rameshchandra Shah at Exh.13, Inquest panchnama at Exh.15, Panchnama of place of occurrence at Exh.19, map of the place of incident at Exh.21, medical papers of the deceased at Exhs.27 and 31, extract of different Vardhis at Exh.33, complaint of the deceased at Exh.49, Yadi received by the Executive Magistrate for recording dying declaration of the deceased at Exh.57, etc. in support of its case against the appellant.

4. After recording of evidence of prosecution witnesses was over, the learned Judge had explained to the appellant the circumstances appearing against her in the evidence of prosecution witnesses and recorded her further statement as required by section 313 of Code of Criminal Procedure. In her statement the appellant had

stated that she was falsely implicated in the case out of vengeance as she had lodged complaint against the deceased who was causing physical and mental harassment to her after consuming liquor. According to her, because of her complaint the deceased was summoned at police station, and threatened the appellant that she would be taught a lesson and therefore she was falsely involved by the deceased in the case. What was maintained by the appellant in her further statement was that the deceased was a headstrong person and that the appellant was not knowing as to how the deceased had received burn injuries. Thereafter the deceased had examined herself on oath as defence witness no.1 and her testimony was recorded by the learned Judge at Exh.55. Further, Harish P. Rathod was examined as defence witness no.2 at Exh.57.

5. On appreciation of evidence adduced by the parties, the learned Judge held that it was proved by the prosecution beyond reasonable doubt that the deceased had died a homicidal death. The learned Judge referred to seven dying declarations on record and found that the seven dying declarations were consistent with each other and inspired confidence of the court. In view of the said conclusion, the learned Judge held that it was proved by the prosecution beyond doubt that the appellant had caused death of the deceased by pouring kerosene over him and setting him ablaze. After recording conviction, the appellant through her advocate was heard on the question of sentence. By the impugned judgement the learned Judge has acquitted the appellant of the offence punishable under section 504, IPC, but convicted her of the offence punishable under section 302 of IPC and sentenced her to R.I. for life, giving rise to instant appeal.

6. Mr. P.M. Vyas, learned counsel of the appellant contended that the Panchnama of the place of occurrence does not indicate that kerosene was found spilt on the floor of the room occupied by the appellant and therefore the case of the prosecution that the appellant had poured kerosene over the deceased is not free from doubt. After referring to the evidence of witness Vimalaben and witness Sureshbhai it was argued that the deceased was found lying near the temple which is opposite the room of the appellant, but no panchanama of that place was ever prepared by the prosecution and as the prosecution has failed to offer any explanation as to how the injured was found lying near the temple which is located opposite the room occupied by the appellant, the prosecution case should be disbelieved. The learned counsel emphasised

that the room occupied by the appellant has not suffered any damage which would have been otherwise caused if the deceased had been set ablaze in the room which indicates that the place of occurrence is not the room occupied by the appellant. The learned counsel referred to the Panchnama of place of occurrence wherein a mention is made that half burnt spectacles and chappals of the deceased were lying and pointed out that those incriminating articles were never recovered and/or seized during the course of investigation nor sent to Forensic Science Laboratory for analysis and therefore the reference to spectacles or chappals of the deceased in the said panchnama would not indicate that the incident in question had taken place in the room of the appellant. What was stressed was that at the time of arrest, panchnama of the person of the appellant was not made, and the reason was that clothes put on by the appellant were not smelling of kerosene, which, in turn, indicates that the appellant is falsely implicated in the case. The learned counsel of the appellant pointed out that the first information report in the case would be the information conveyed by Police Constable Vijaysinh Lalsinh to Police Officer Incharge of Shahibaug Police Station and not the so-called complaint recorded by P.I. Mr.Chauhan, which in turn shows that the whole case has been concocted by the prosecution against the appellant. The learned counsel drew the attention of the Court to the fact that as per the medical record the general condition of the deceased was poor at 10 a.m., whereas at 11.30 am, his pulse was feeble and BP was unrecordable and therefore the claim made by P.I.Mr. Chauhan that the deceased had narrated the incident in detail and that he had recorded first information report should be disbelieved by the court. It was argued that the so-called seven consistent dying declarations stand falsified by the other reliable evidence on record and therefore the appeal should be accepted.

7. Mr. R.M. Chauhan, learned Additional Public Prosecutor, contended that the deceased had made consistent dying declarations before different authorities such as Police Constable, Doctors, Executive Magistrate, etc. and therefore the well founded conviction of the appellant recorded by the learned Judge should not be interfered with by this Court. According to the learned Additional Public Prosecutor, the medical evidence on record shows that the deceased was conscious as well as in a fit state of mind to make statement and that the doctors as well as Executive Magistrate had recorded his statements as narrated by him and in view of reliable evidence adduced by prosecution relating to

dying declarations, the appeal should be rejected. According to the learned Additional Public Prosecutor, the learned counsel of the appellant has failed to point out that the dying declarations are inconsistent with each other or stand falsified with other reliable material on record and therefore the appeal should be dismissed.

8. This Court has undertaken a complete and comprehensive appreciation of all vital features of the case and the entire evidence on record with reference to broad and reasonable probabilities of the case. It is an admitted position that the incident in question was not witnessed by anyone and no direct evidence is produced by the prosecution to substantiate the charge levelled against the appellant. The prosecution has heavily relied upon seven dying declarations made by the deceased before different persons and authorities. Before appreciating the evidence of the witnesses and the contents of dying declarations it would be relevant to notice the law relating to dying declaration. Section 32(1) of the Indian Evidence Act, 1872 is an exception to the general rule that hearsay evidence is not admissible evidence and unless evidence is tested by cross-examination, it is not creditworthy. Under Section 32 when a statement is made by a person as to the cause of death or as to any of the circumstances, which result in his death, in cases in which the cause of that person's death comes into question, such a statement, oral or in writing made by the deceased to the witness is a relevant fact and is admissible in evidence. The statement made by the deceased, called the dying declaration, falls in that category provided it has been made by the deceased while in a fit mental condition. It is well settled that conviction can be based on the dying declaration itself provided it is satisfactory and reliable. A dying declaration made by a person on the verge of his death has a special sanctity, as at that solemn moment, a person is most unlikely to make any untrue statement. The sanctity attached to dying declaration is that a person on the verge of death would not commit sin of implicating somebody falsely. The shadow of impending death is by itself the guarantee of truth of the statement made by the deceased regarding cause of circumstances leading to his death. The general principle on which this species of evidence is admitted is that they are declarations made in extremity, when the person is at the point of death and when every hope of this world is gone. At that point of time every motive to falsehood is silenced and the mind is induced by the most powerful consideration to speak the truth. Such a

solemn situation is considered by the law as creating an obligation equal to that which is imposed by a positive oath administered in a court of justice. A dying declaration, therefore, enjoys almost a sacrosanct status as a piece of evidence, coming as it does from the mouth of the deceased victim. Once the statement of dying person and the evidence of the witnesses testifying to the same passes the test of careful scrutiny of the Courts, it becomes very important and reliable piece of evidence and if the Court is satisfied that the dying declaration is true and free from any embellishment such a dying declaration by itself can be sufficient for recording conviction even without looking for any corroboration. However, if there are any infirmities of such nature warranting further assurance then the Courts have to look for corroboration. The rule of corroboration requires that the dying declaration be subjected to close scrutiny since the evidence is untested by cross-examiantion. The declaration must be accepted, unless such declaration can be shown not to have been made in expectation of death or to be otherwise unreliable. Any evidence adduced for this purpose can only detract from its value, but does not affect its admissibility. It is also well settled that it is not necessary that recording of dying declaration should be in the form of question and answer. The persons making dying declaration need not make elaborate and exhaustive statement as to cover each and every aspect of the incident,more so, where the deceased-declarant was, at that time, suffering from high degree of burns and was under severe stress and agony. The Supreme Court has emphasised that shortness of the statement itself guarantees truth. One of the important tests of reliability of dying declaration is that the person who recorded it must be satisfied that the deceased was in a fit state of mind. Generally, the following three tests have been devised in judicial pronouncement in order to answer the question whether the dying declaration is true:-

(1) Was the victim in a position to identify the assailant/s?

(2) Whether the version narrated byt he victim is intrinsically sound and accords with probabilities?

(3) Whether any material part is proved to be false by other reliable evidence?

(See: (1) Khushall Rao Vs. State of Bombay (1958) SCR

552; (2) Tarachand Damu Sutar V. State of Maharashtra (1962)2 SCR 775; (3) Kusa and ors V. State of Orisa (1980)2 SCC 207; (4) Meesala Kundula Bala Subrahmaniyam and another V. State of A.P. (1993)2 SCC 684; (5) Meesala Ramakrishna V. State of A.P. (1964)4 SCC 181; (6) Govardhan Raoji Ghyare V. State of Maharashtra, 1993 Suppl. 4 SCC 316; (7) Gangotri Singh V. State of UP, 1993 Suppl. 1 SCC 387; (8) Smt. Paniben V. State of Gujarat, AIR 1992 SC 1817; (9) State of Rajasthan V. Kishore, JT 1996(2) SC 595; and (10) State of U.P. V. Ameer Ali, JT 1996 (4) SC 123).

9. In the light of above principles, the dying declarations which are on record of the case will have to be evaluated. The evidence of witness Vimalaben would indicate that the deceased had made oral dying declaration before her to the effect that the appellant had poured kerosene over him and set him ablaze while he was being removed to Civil Hospital. Similar is the evidence tendered by witness Sureshbhai Yadav who is brother of Vimalaben. The evidence of Dr. Vinodkumar Gupta shows that he had recorded history of assault as narrated by the deceased. The history of assault recorded by Dr. Gupta indicates that the appellant had poured kerosene over the deceased and set him on fire. Similar is the evidence of Dr. Arulappan Tangaswamy. The evidence of Police Constable Vijaysinh would show that on being informed by Dr. Gupta he had gone to Burns Ward, and on inquiry being made he was informed by the deceased that the appellant had poured kerosene over her and set him ablaze. This information was conveyed by police constable Vijaysinh to Police Officer Incharge of Shahibaug Police Station and therefore this court is of the opinion that the information conveyed by Police Constable Vijaysinh to P.S.O. of Shahibaug Police Station would be the first information report within the meaning of section 154 of the Code of Criminal Procedure. In the said information necessary particulars such as name of the injured, name of the assailant, the manner in which burn injuries were received, etc. were mentioned disclosing commission of cognizable offence and therefore this Court is of the firm opinion that the learned Judge of the trial court was not justified in treating the information recorded by P.I.Mr. Chauhan as first information relating to the incident in question. The evidence of Executive Magistrate Jagdisbhai S. Parmar would show that on receipt of Yadi he had gone to Civil Hospital and after verifying from the doctor that the deceased was conscious and in a fit state of mind to make statement, had recorded dying declaration of the deceased in Hindi language which is produced by the prosecution on

the record of the case at Exh.10. Thus, there is no manner of doubt that the deceased was consistent at all occasions and had stated that it was the appellant who had poured kerosene over him and set him on fire. However, attempt on the part of the prosecution to produce got up evidence cannot be ignored. This Court has perused the original dying declaration recorded by Executive Magistrate Mr. Parmar which shows that with great difficulty the deceased had been able to sign his first name and that too incorrectly, whereas the first information report sought to be produced on the record of the case which was recorded by P.I. Mr. Chauhan would indicate that deceased was hale and hearty and signed his full name including the surname as if nothing had happened to him. The medical evidence on record establishes that at 10 a.m. the general condition of the deceased was poor, whereas his pulse was feeble. Further, as per the medical record, at 11.30 a.m. the pulse of the deceased was feeble, whereas his blood pressure was unrecordable. At 11.40 a.m. his pulse and blood pressure were unrecordable and he was declared dead at 12.30 pm. The evidence of P.I.Mr. Chauhan makes it clear that he had not verified from the doctor that the deceased was conscious or that he was in a fit state of mind to make statement. Moreover, the information was recorded in Gujarati language and not in Hindi language as was done by the Executive Magistrate. Therefore his claim that the deceased was conscious and that he had recorded first information report as narrated by the deceased does not inspire confidence of the court at all. At abut 11.30 a.m. the deceased was almost sinking and therefore it would not have been possible for P.I. Mr. Chauhan to record detailed and lengthy statement of the deceased as is claimed by him before the court. Thus, the prosecution has sought to produce got up evidence against the appellant which is a serious flaw in the prosecution case against the appellant.

10. As observed earlier, if any material part of the dying declaration is proved to be false by other reliable evidence, the same cannot be made basis for convicting an accused. The prosecution has produced panchnama of place of occurrence at Exh.19 and as per the said panchnama the place of occurrence is the room which was occupied by the appellant,meaning thereby, according to the prosecution the incident in question had taken place in the room occupied by the appellant. It is relevant to notice that the room is of a small size and traces of kerosene on the floor were not found at all. The contents of panchnama of place of occurrence does not indicate that extensive damage to the room was caused because of fire. If the

appellant had poured kerosene over the deceased and had set him ablaze, extensive damage to the room would have been caused. Further, spectacles and chappals of the deceased, which are mentioned in the panchnama of place of occurrence, were never recovered/seized during the course of investigation and the said factum is not proved at all to the satisfaction of the court. Moreover, at the time of arrest, the panchnama of person of the appellant was never prepared. If the clothes put on by her had been recovered it could have been verified whether her clothes were smelling of kerosene or not. However, no attempt was made by the investigating agency to recover the clothes which were worn by the appellant at the time of the incident. It is nobody's case that the clothes put on by the appellant were smelling of kerosene. What is astonishing is that the deceased was found lying injured near temple which is located opposite the room of the appellant. This is quite evident from the evidence of witness Vimalaben and witness Sureshbhai. However, no panchnama of place where the deceased was found lying in an injured condition was ever prepared during the course of investigation. The witnesses examined by the prosecution could not offer any explanation as to how the deceased was found lying in an injured condition near the temple which is located opposite the room of the appellant. The case of Vimalaben and that of Sureshbhai is that in the dead of night, they were informed by Rajeshbhai who is son of Vimalaben and who was sleeping in Dalsukhmali's Chawl that the deceased had received burn injuries. It is not their case that Rajeshbhai who is son of Vimalaben had informed Vimalaben as well as Sureshbhai that appellant had poured kerosene over the deceased and set him ablaze. It is relevant to notice that but for the information conveyed by Rajeshbhai who is son of Vimalaben, neither Vimalaben nor Suresh would have gone to the place near the temple where the deceased was found lying in an injured condition. However, the prosecution has failed to examine Rajesh who was a material witness and who could have unfolded the prosecution story. No reasons are assigned by the prosecution as to why Rajesh was not examined as one of the witnesses. Therefore, an adverse inference will have to be drawn against the prosecution to the effect that if he had been examined, he would not have supported the case of the prosecution that the appellant had poured kerosene over the deceased and set him ablaze. Further, in the complaint which was allegedly recorded by P.I. Chauhan, it is mentioned that when the deceased was standing near the door of room of the appellant, the appellant had gone inside and brought kerosene in a vessel after which the same was poured over

him and he was set on fire as a result of which he had received burn injuries. However, no vessel could be found during the course of investigation. The evidence of witness Pravinkumar Solanki, in whose presence the panchnama of place of occurrence was prepared, would indicate that in the room which was occupied by the appellant, there was no trace of kerosene spilt on the floor and that opposite the temple, tankers and hand-cards carrying kerosene were parked and further that kerosene was found spilt on the road. Thus, the evidence on record proves that the incident in question had not taken place in the room of the appellant and had taken place somewhere else regarding which no explanation is offered by the prosecution. It is nobody's case that the clothes put on by the appellant were smelling of kerosene. Even the match box which was recovered during investigation could not be sent to forensic science laboratory for analysis. Thus, the claim of the deceased in his dying declarations that the incident in question had taken place in the room of the appellant stands falsified by other reliable evidence on record. The evidence of police officers would indicate that the deceased was a bootlegger as well as a headstrong person. Therefore reasonable possibility that those who were on inimical terms with him could have killed him is not ruled out. The appellant in the company of sons of Vimalaben had gone to Pavagadh two days prior to the date of the incident and had come back. Obviously there was no motive on her part to kill the deceased through whom she had given birth to two children. Under the circumstances, the claim of the appellant that she was falsely implicated in the case deserves consideration. Her case is that because of harassment meted out to her, she had filed complaint as a result of which the deceased was summoned at police station and had threatened her that she would be taught a lesson. Therefore there is every possibility that in order to take revenge, the deceased had named the appellant as the person who had poured kerosene over him and set him ablaze. Moreover, the story stated by the deceased that the appellant had poured kerosene over him and set him ablaze is inherently improbable inasmuch as the deceased who was a bootlegger and headstrong person could not have been overpowered by the appellant nor the appellant could have dared to set on fire such a headstrong person. The record further shows that Harish, who is the son of the appellant, had also received burn injuries while trying to put out the fire. If the appellant had poured kerosene over the deceased and set him ablaze such an attempt would not have been made by her son. Thus,looking to the totality of the circumstances as emerging from the record,this

Court is of the opinion that the case put forth by the prosecution is improbable and the appellant cannot be convicted on the basis of so-called consistent dying declarations made by the deceased. The appeal, therefore, deserves to be accepted.

11. For the foregoing reasons, the appeal succeeds. The judgement dated October 24, 1997, rendered by the learned City Sessions Judge of Ahmedabad City in Sessions Case No.319/1996, convicting the appellant of the offence punishable under section 302 and sentencing her R.I. for life for murder of deceased Pratapsinh Sampatsinh is hereby set aside. The jail authorities are directed to release the appellant immediately unless her presence is needed with reference to any other case. Muddamal articles to be disposed of in terms of the directions given by the learned Judge in the impugned judgement.

[J.M. PANCHAL, J.]

[M.C. PATEL, J.]

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